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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CV 11 - 04451

ISL (SP)

CHRIS KOHLER,

No.

Plaintiff,

Plaintiff's Complaint

vs.

BED BATH & BEYOND of
CALIFORNIA, LLC dba BED
BATH & BEYOND #1136;
BRINKER RESTAURANT
CORPORATION dba CHILIS
GRILL & BAR #1169; PETSMART,
INC. dba PETSMART #1362;
WENDY'S INTERNATIONAL,
INC. dba WENDY'S #10574; LAKE
ELSINORE MARKETPLACE, LLC,

Defendants.

Kohler v. Petsmart, Inc., et al.
Plaintiff's Complaint

I. SUMMARY

1
2 1. This is a civil rights action by plaintiff Chris Kohler ("Kohler") for
3 discrimination at the building, structure, facility, complex, property, land,
4 development, and/or surrounding business complexes known as:

5 Bed Bath & Beyond #1136
6 29231 Central Avenue
7 Lake Elsinore, CA 92532
8 (hereafter "the BB&B Facility")

9 Chilis Grill & Bar #1169
10 29233 Central Avenue
11 Lake Elsinore, CA 92532
(hereafter "the Chilis Facility")

12 Petsmart #1362
13 29227 Central Avenue
14 Lake Elsinore, CA 92532
15 (hereafter "the Petsmart Facility")

16 Wendy's #10574
17 29275 Central Avenue
18 Lake Elsinore, CA 92532
(hereafter "the Wendy's Facility")

19 (collectively, "the Entire Facility").
20

21 2. Kohler seeks damages, injunctive and declaratory relief, attorney
22 fees and costs pursuant to the Americans with Disabilities Act of 1990 (42 U.S.C.
23 §§ 12101 et seq.) and related California statutes against: Bed Bath & Beyond of
24 California, LLC dba Bed Bath & Beyond #1136 (hereafter, "BB&B"); Brinker
25 Restaurant Corporation dba Chilis Grill & Bar #1169 (hereafter, "Chilis");
26 Petsmart, Inc. dba Petsmart #1362 (hereafter, "Petsmart"); Wendy's International,
27 Inc. dba Wendy's #10574 (hereafter, "Wendy's"); and, Lake Elsinore
28 Marketplace, LLC (hereafter "LEM").

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II. JURISDICTION

3. This Court has original jurisdiction under 28 U.S.C. §§ 1331 and 1343 for ADA claims.

4. Supplemental jurisdiction for claims brought under parallel California law—arising from the same nucleus of operative facts—is predicated on 28 U.S.C. § 1367.

5. Kohler's claims are authorized by 28 U.S.C. §§ 2201 and 2202.

III. VENUE

6. All actions complained of herein take place within the jurisdiction of the United States District Court, Central District of California, and venue is invoked pursuant to 28 U.S.C. § 1391(b), (c).

IV. PARTIES

7. BB&B owns, operates, and/or leases the BB&B Facility, and consists of a person (or persons), firm, and/or corporation.

8. Chilis owns, operates, and/or leases the Chilis Facility, and consists of a person (or persons), firm, and/or corporation.

9. Petsmart owns, operates, and/or leases the Petsmart Facility, and consists of a person (or persons), firm, and/or corporation.

10. Wendy's owns, operates, or leases the Wendy's Facility, and consists of a person (or persons), firm, and/or corporation.

11. LEM owns, operates, and/or leases the Entire Facility, and consists of a person (or persons), firm, and/or corporation.

12. Kohler was shot in the back in 1988, which left him paralyzed from the waist down and requires the use of a wheelchair when traveling about in public. Consequently, Kohler is "physically disabled," as defined by all applicable California and United States laws, and a member of the public whose rights are protected by these laws.

V. FACTS

13. The BB&B Facility is a sales or retail establishment, open to the public, which is intended for nonresidential use and whose operation affects commerce

14. The Chilis Facility is an establishment serving food and drink, open to the public, which is intended for nonresidential use and whose operation affects commerce.

15. The Petsmart Facility is a sales or retail establishment, open to the public, which is intended for nonresidential use and whose operation affects commerce

16. The Wendy's Facility is an establishment serving food and drink, open to the public, which is intended for nonresidential use and whose operation affects commerce.

17. The Entire Facility is a sales or retail establishment, open to the public, which is intended for nonresidential use and whose operation affects commerce.

18. Kohler visited these facilities and encountered barriers (both physical and intangible) that interfered with—if not outright denied—his ability to use and enjoy the goods, services, privileges, and accommodations offered at both facilities.

19. To the extent known by Kohler, the barriers at the BB&B Facility included, but are not limited to, the following:

- The slope and cross slopes of numerous disabled parking spaces exceed 2.0%. Without a level parking space, it is difficult for Kohler to transfer/unload from his vehicle;

- 1 • The slope and cross slopes of numerous access aisles exceed 2.0%.
2 Without a level access aisle, it is difficult for Kohler to
3 transfer/unload from his vehicle;
- 4 • At least one disabled parking space has no signage posted, thus
5 making it difficult for Kohler to determine which spaces are
6 intended to be accessible;
- 7 • There are no disabled parking spaces designated as being van
8 accessible, thus making it difficult for Kohler to determine which
9 spaces are intended for the use of vans;
- 10 • There is insufficient strike side clearance when entering the
11 restroom, thus making it difficult for Kohler to pull open the door;
- 12 • The water closet stall door is not self-closing, thus making it
13 difficult for Kohler to completely shut;
- 14 • The front toilet tissue dispenser is more than 12 inches from the
15 front of the water closet, making it difficult – if not impossible – for
16 Kohler to reach and use;
- 17 • The pipes beneath the lavatories are not completely wrapped, thus
18 causing Kohler to risk burning his legs when using; and,
- 19 • The paper towel dispenser requires twisting, pinching and/or
20 grasping to operate, thus making it difficult for Kohler to use; and,
- 21 • There is insufficient strike side clearance when exiting the restroom,
22 thus making it difficult for Kohler to push open the door.

23 These barriers prevented Kohler from enjoying full and equal access.

1 20. To the extent known by Kohler, the barriers at the Chilis Facility
2 included, but are not limited to, the following:

- 3 • The slope and cross slopes of numerous disabled parking spaces
4 exceed 2.0%. Without a level parking space, it is difficult for
5 Kohler to transfer/unload from his vehicle;
- 6 • The slope and cross slopes of numerous access aisles exceed 2.0%.
7 Without a level access aisle, it is difficult for Kohler to
8 transfer/unload from his vehicle;
- 9 • At least one disabled parking space has no signage posted, thus
10 making it difficult for Kohler to determine which spaces are
11 intended to be accessible;
- 12 • The slope of the route from the disabled parking space (without
13 signage) to the entrance is too steep and lacks proper handrails on
14 both sides, thus making it very difficult for Kohler to traverse and
15 reach the entrance;
- 16 • The signage at the van accessible parking space is incorrect, thus
17 making it difficult for Kohler to determine which spaces are
18 intended to be for vans;
- 19 • When left open, the baby changing station obstructs the swing of the
20 water closet stall door, thus preventing Kohler from accessing the
21 accessible water closet stall;
- 22 • The toilet tissue dispenser protrudes into the clear floor and/or
23 maneuvering space required to access the water closet. Without this
24 clear space, it becomes difficult for Kohler to transfer from his
25 wheelchair to the water closet;
- 26 • The toilet tissue dispenser contains sharp edges, thus causing Kohler
27 to risk injuring himself;

- 1 • The toilet tissue dispenser is an obstruction to the use of the side
- 2 grab bar. Without full use of this bar, it becomes difficult for Kohler
- 3 to transfer from his wheelchair to the water closet;
- 4 • The pipes beneath the lavatories are not wrapped, thus causing
- 5 Kohler to risk burning his legs when using;
- 6 • The paper towel dispensers are mounted outside of the required
- 7 reach range limits, thus making them difficult – if not impossible –
- 8 for Kohler to reach and use;
- 9 • The paper towel dispensers are mounted too high, thus making them
- 10 difficult – if not impossible – for Kohler to reach and use; and,
- 11 • There is insufficient strike side clearance when exiting the restroom,
- 12 thus making it difficult for Kohler to pull open the door.

13 These barriers prevented Kohler from enjoying full and equal access.

14 21. To the extent known by Kohler, the barriers at the Petsmart
15 included, but are not limited to, the following:

- 16 • The slope and cross slopes of numerous disabled parking spaces
- 17 exceed 2.0%. Without a level parking space, it is difficult for
- 18 Kohler to transfer/unload from his vehicle;
- 19 • The slope and cross slopes of numerous access aisles exceed 2.0%.
- 20 Without a level access aisle, it is difficult for Kohler to
- 21 transfer/unload from his vehicle;
- 22 • At least one disabled parking space has no signage posted, thus
- 23 making it difficult for Kohler to determine which spaces are
- 24 intended to be accessible;
- 25 • There are no disabled parking spaces designated as being van
- 26 accessible, thus making it difficult for Kohler to determine which
- 27 spaces are intended for the use of vans;

- 1 • At least two disabled parking spaces lack wheelstops that prevent
2 vehicles parked in those spaces from encroaching into the accessible
3 route leading from all of the disabled parking spaces to the entrance.
4 Without an accessible route from the disabled parking spaces,
5 Kohler would be forced to travel through vehicular traffic and risk
6 being hit by a vehicle;
- 7 • There is no handle mounted below the water closet stall door lock,
8 thus making it difficult for Kohler to completely and properly close
9 the door;
- 10 • The disposable seat cover dispenser is mounted outside of the
11 required reach range limits, thus making it difficult – if not
12 impossible – for Kohler to reach and use;
- 13 • The water closet is an obstruction to the use of the disposable seat
14 cover dispenser, thus making the dispenser difficult – if not
15 impossible – for Kohler to reach and use;
- 16 • The toilet tissue dispenser is an obstruction to the use of the side
17 grab bar. Without full use of this bar, it becomes difficult for Kohler
18 to transfer from his wheelchair to the water closet;
- 19 • The toilet tissue dispenser protrudes into the clear floor and/or
20 maneuvering space required at the water closet. Without this clear
21 space, it becomes difficult for Kohler to transfer from his wheelchair
22 to the water closet;
- 23 • The pipes beneath the lavatory are not completely covered, thus
24 causing Kohler to risk burning his legs when using;
- 25 • The paper towel dispenser is mounted too high, thus making it
26 difficult – if not impossible – for Kohler to reach and use;

- 1 • When left open, the baby changing station is an obstruction to the
- 2 use of the soap dispenser, thus making the dispenser difficult – if not
- 3 impossible – for Kohler to reach and use; and,
- 4 • There is insufficient strike side clearance when exiting the restroom,
- 5 thus making it difficult for Kohler to pull open the door.

6 These barriers prevented Kohler from enjoying full and equal access.

7 22. To the extent known by Kohler, the barriers at the Wendy's Facility
8 included, but are not limited to, the following:

- 9 • The slope and cross slopes of numerous disabled parking spaces
- 10 exceed 2.0%. Without a level parking space, it is difficult for
- 11 Kohler to transfer/unload from his vehicle;
- 12 • The slope and cross slopes of numerous access aisles exceed 2.0%.
- 13 Without a level access aisle, it is difficult for Kohler to
- 14 transfer/unload from his vehicle;
- 15 • At least one disabled parking space has no signage posted, thus
- 16 making it difficult for Kohler to determine which spaces are
- 17 intended to be accessible;
- 18 • The signage posted at the van accessible parking space is incorrect,
- 19 thus making it difficult for Kohler to determine which spaces are
- 20 intended for the use of vans;
- 21 • The water closet stall door is not self-closing, thus making it
- 22 difficult for Kohler to completely and properly shut;
- 23 • The disposable seat cover dispenser is mounted too high, thus
- 24 making it difficult – if not impossible – for Kohler to reach and use;
- 25 • The water closet is an obstruction to the use of the disposable seat
- 26 cover dispenser, thus making it difficult – if not impossible – for
- 27 Kohler to reach and use;

- 1 • Due to its location above and behind the water closet, the disposable
2 seat cover dispenser is outside of the required reach range limits,
3 thus making it difficult – if not impossible – for Kohler to reach and
4 use;
- 5 • Both roll of toilet tissue in the dispenser are more than 12 inches
6 from the front of the water closet, thus making them difficult – if not
7 impossible for Kohler to reach and use;
- 8 • The toilet tissue dispenser protrudes into the clear floor and/or
9 maneuvering space required to access the water closet. Without this
10 clear space, it is difficult for Kohler to transfer from his wheelchair
11 to the water closet;
- 12 • The toilet tissue dispenser has sharp edges, thus causing Kohler to
13 risk injury;
- 14 • The soap dispenser is mounted too high, thus making it difficult – if
15 not impossible – for Kohler to reach and use; and,
- 16 • The pipes beneath the lavatory are not wrapped, thus causing Kohler
17 to risk burning his legs when using.

18 These barriers prevented Kohler from enjoying full and equal access.

19 23. Kohler was also deterred from visiting the BB&B Facility because
20 he knew that the BB&B Facility's goods, services, facilities, privileges,
21 advantages, and accommodations were unavailable to physically disabled patrons
22 (such as himself). He continues to be deterred from visiting the BB&B Facility
23 because of the future threats of injury created by these barriers.

24 24. Kohler was also deterred from visiting the Chilis Facility because he
25 knew that the Chilis Facility's goods, services, facilities, privileges, advantages,
26 and accommodations were unavailable to physically disabled patrons (such as
27
28

1 himself). He continues to be deterred from visiting the Chilis Facility because of
2 the future threats of injury created by these barriers.

3 25. Kohler was also deterred from visiting the Petsmart Facility because
4 he knew that the Petsmart Facility's goods, services, facilities, privileges,
5 advantages, and accommodations were unavailable to physically disabled patrons
6 (such as himself). He continues to be deterred from visiting the Petsmart Facility
7 because of the future threats of injury created by these barriers.

8 26. Kohler was also deterred from visiting the Wendy's Facility because
9 he knew that the Wendy's Facility's goods, services, facilities, privileges,
10 advantages, and accommodations were unavailable to physically disabled patrons
11 (such as himself). He continues to be deterred from visiting the Wendy's Facility
12 because of the future threats of injury created by these barriers.

13 27. Kohler also encountered barriers at the facilities, which violate state
14 and federal law, but were unrelated to his disability. Nothing within this
15 complaint, however, should be construed as an allegation that Kohler is seeking
16 to remove barriers unrelated to his disability.

17 28. BB&B knew that these elements and areas of the BB&B Facility
18 were inaccessible, violate state and federal law, and interfere with (or deny)
19 access to the physically disabled. Moreover, BB&B has the financial resources
20 to remove these barriers from the BB&B Facility (without much difficulty or
21 expense), and make the BB&B Facility accessible to the physically disabled. To
22 date, however, BB&B refuses to either remove those barriers or seek an
23 unreasonable hardship exemption to excuse non-compliance.

24 29. At all relevant times, BB&B has possessed and enjoyed sufficient
25 control and authority to modify the BB&B Facility to remove impediments to
26 wheelchair access and to comply with the Americans with Disabilities Act
27 Accessibility Guidelines and Title 24 regulations. BB&B has not removed such

1 impediments and has not modified the BB&B Facility to conform to accessibility
2 standards. BB&B has intentionally maintained the BB&B Facility in its current
3 condition and has intentionally refrained from altering the BB&B Facility so that
4 it complies with the accessibility standards.

5 30. Kohler further alleges that the (continued) presence of barriers at the
6 bed bath & beyond facility is so obvious as to establish BB&B's discriminatory
7 intent. On information and belief, Kohler avers that evidence of this
8 discriminatory intent includes BB&B's refusal to adhere to relevant building
9 standards; disregard for the building plans and permits issued for the BB&B
10 Facility; conscientious decision to the architectural layout (as it currently exists)
11 at the BB&B Facility; decision not to remove barriers from the BB&B Facility;
12 and allowance that BB&B's property continues to exist in its non-compliant state.
13 Kohler further alleges, on information and belief, that BB&B is not in the midst
14 of a remodel, and that the barriers present at the BB&B Facility are not isolated
15 (or temporary) interruptions in access due to maintenance or repairs.¹

16 31. Chilis knew that these elements and areas of the Chilis Facility were
17 inaccessible, violate state and federal law, and interfere with (or deny) access to
18 the physically disabled. Moreover, Chilis has the financial resources to remove
19 these barriers from Chilis (without much difficulty or expense), and make the
20 Chilis Facility accessible to the physically disabled. To date, however, Chilis
21 refuses to either remove those barriers or seek an unreasonable hardship
22 exemption to excuse non-compliance.

23 32. At all relevant times, Chilis has possessed and enjoyed sufficient
24 control and authority to modify the Chilis Facility to remove impediments to
25 wheelchair access and to comply with the Americans with Disabilities Act
26 Accessibility Guidelines and Title 24 regulations. Chilis has not removed such
27

28 ¹ Id.; 28 C.F.R. § 36.211(b)
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1 impediments and has not modified the Chilis Facility to conform to accessibility
2 standards. Chilis has intentionally maintained the Chilis Facility in its current
3 condition and has intentionally refrained from altering the Chilis Facility so that
4 it complies with the accessibility standards.

5 33. Kohler further alleges that the (continued) presence of barriers at the
6 chilis facility is so obvious as to establish Chilis' discriminatory intent. On
7 information and belief, Kohler avers that evidence of this discriminatory intent
8 includes Chilis' refusal to adhere to relevant building standards; disregard for the
9 building plans and permits issued for the Chilis Facility; conscientious decision
10 to the architectural layout (as it currently exists) at the Chilis Facility; decision
11 not to remove barriers from the Chilis Facility; and allowance that Chilis'
12 property continues to exist in its non-compliant state. Kohler further alleges, on
13 information and belief, that Chilis is not in the midst of a remodel, and that the
14 barriers present at the Chilis Facility are not isolated (or temporary) interruptions
15 in access due to maintenance or repairs.²

16 34. Petsmart knew that these elements and areas of the Petsmart Facility
17 were inaccessible, violate state and federal law, and interfere with (or deny)
18 access to the physically disabled. Moreover, Petsmart has the financial resources
19 to remove these barriers from Petsmart (without much difficulty or expense), and
20 make the Petsmart Facility accessible to the physically disabled. To date,
21 however, Petsmart refuses to either remove those barriers or seek an
22 unreasonable hardship exemption to excuse non-compliance.

23 35. At all relevant times, Petsmart has possessed and enjoyed sufficient
24 control and authority to modify the Petsmart Facility to remove impediments to
25 wheelchair access and to comply with the Americans with Disabilities Act
26 Accessibility Guidelines and Title 24 regulations. Petsmart has not removed such
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28 ² Id.; 28 C.F.R. § 36.211(b)
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1 impediments and has not modified the Petsmart Facility to conform to
2 accessibility standards. Petsmart has intentionally maintained the Petsmart
3 Facility in its current condition and has intentionally refrained from altering the
4 Petsmart Facility so that it complies with the accessibility standards.

5 36. Kohler further alleges that the (continued) presence of barriers at the
6 Petsmart Facility is so obvious as to establish Petsmart's discriminatory intent.
7 On information and belief, Kohler avers that evidence of this discriminatory
8 intent includes Petsmart's refusal to adhere to relevant building standards;
9 disregard for the building plans and permits issued for the Petsmart Facility;
10 conscientious decision to the architectural layout (as it currently exists) at the
11 Petsmart Facility; decision not to remove barriers from the Petsmart Facility; and
12 allowance that Petsmart's property continues to exist in its non-compliant state.
13 Kohler further alleges, on information and belief, that Petsmart is not in the midst
14 of a remodel, and that the barriers present at the Petsmart Facility are not isolated
15 (or temporary) interruptions in access due to maintenance or repairs.³

16 37. Wendy's knew that these elements and areas of the Wendy's Facility
17 were inaccessible, violate state and federal law, and interfere with (or deny)
18 access to the physically disabled. Moreover, Wendy's has the financial resources
19 to remove these barriers from Wendy's (without much difficulty or expense), and
20 make the Wendy's Facility accessible to the physically disabled. To date,
21 however, Wendy's refuses to either remove those barriers or seek an unreasonable
22 hardship exemption to excuse non-compliance.

23 38. At all relevant times, Wendy's has possessed and enjoyed sufficient
24 control and authority to modify the Wendy's Facility to remove impediments to
25 wheelchair access and to comply with the Americans with Disabilities Act
26 Accessibility Guidelines and Title 24 regulations. Wendy's has not removed such

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28 ³ Id.; 28 C.F.R. § 36.211(b)
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1 impediments and has not modified the Wendy's Facility to conform to
 2 accessibility standards. Wendy's has intentionally maintained the Wendy's
 3 Facility in its current condition and has intentionally refrained from altering the
 4 Wendy's Facility so that it complies with the accessibility standards.

5 39. Kohler further alleges that the (continued) presence of barriers at the
 6 Wendy's Facility is so obvious as to establish Wendys' discriminatory intent. On
 7 information and belief, Kohler avers that evidence of this discriminatory intent
 8 includes Wendys' refusal to adhere to relevant building standards; disregard for
 9 the building plans and permits issued for the Wendy's Facility; conscientious
 10 decision to the architectural layout (as it currently exists) at the Wendy's Facility;
 11 decision not to remove barriers from the Wendy's Facility; and allowance that
 12 Wendys' property continues to exist in its non-compliant state. Kohler further
 13 alleges, on information and belief, that Wendy's is not in the midst of a remodel,
 14 and that the barriers present at the Wendy's Facility are not isolated (or
 15 temporary) interruptions in access due to maintenance or repairs.⁴

16 VI. FIRST CLAIM

17 Americans with Disabilities Act of 1990

18 Denial of "Full and Equal" Enjoyment and Use

19 (The BB&B Facility)

20 40. Kohler incorporates the allegations contained in paragraphs 1
 21 through 39 for this claim.

22 41. Title III of the ADA holds as a "general rule" that no individual shall
 23 be discriminated against on the basis of disability in the full and equal enjoyment
 24 (or use) of goods, services, facilities, privileges, and accommodations offered by
 25 any person who owns, operates, or leases a place of public accommodation. 42
 26 U.S.C. § 12182(a).

27
 28 ⁴ Id.; 28 C.F.R. § 36.211(b)
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1 42. BB&B discriminated against Kohler by denying “full and equal
2 enjoyment” and use of the goods, services, facilities, privileges or
3 accommodations of the BB&B Facility during each visit and each incident of
4 deterrence.

5 Failure to Remove Architectural Barriers in an Existing Facility

6 43. The ADA specifically prohibits failing to remove architectural
7 barriers, which are structural in nature, in existing facilities where such removal
8 is readily achievable. 42 U.S.C. § 12182(b)(2)(A)(iv). The term “readily
9 achievable” is defined as “easily accomplishable and able to be carried out
10 without much difficulty or expense.” *Id.* § 12181(9).

11 44. When an entity can demonstrate that removal of a barrier is not
12 readily achievable, a failure to make goods, services, facilities, or
13 accommodations available through alternative methods is also specifically
14 prohibited if these methods are readily achievable. *Id.* § 12182(b)(2)(A)(v).

15 45. Here, Kohler alleges that BB&B can easily remove the architectural
16 barriers at BB&B Facility without much difficulty or expense, and that BB&B
17 violated the ADA by failing to remove those barriers, when it was readily
18 achievable to do so.

19 46. In the alternative, if it was not “readily achievable” for BB&B to
20 remove the BB&B Facility’s barriers, then BB&B violated the ADA by failing to
21 make the required services available through alternative methods, which are
22 readily achievable.

23 Failure to Design and Construct an Accessible Facility

24 47. On information and belief, the BB&B Facility was designed or
25 constructed (or both) after January 26, 1992—independently triggering access
26 requirements under Title III of the ADA.

1 48. The ADA also prohibits designing and constructing facilities for first
 2 occupancy after January 26, 1993, that aren't readily accessible to, and usable by,
 3 individuals with disabilities when it was structurally practicable to do so. 42
 4 U.S.C. § 12183(a)(1).

5 49. Here, BB&B violated the ADA by designing or constructing (or
 6 both) the BB&B Facility in a manner that was not readily accessible to the
 7 physically disabled public—including Kohler—when it was structurally practical
 8 to do so.⁵

9 Failure to Make an Altered Facility Accessible

10 50. On information and belief, the BB&B Facility was modified after
 11 January 26, 1992, independently triggering access requirements under the ADA.

12 51. The ADA also requires that facilities altered in a manner that affects
 13 (or could affect) its usability must be made readily accessible to individuals with
 14 disabilities to the maximum extent feasible. 42 U.S.C. § 12183(a)(2). Altering an
 15 area that contains a facility's primary function also requires adding making the
 16 paths of travel, bathrooms, telephones, and drinking fountains serving that area
 17 accessible to the maximum extent feasible. *Id.*

18 52. Here, BB&B altered the BB&B Facility in a manner that violated
 19 the ADA and was not readily accessible to the physically disabled public—
 20 including Kohler—to the maximum extent feasible.

21 Failure to Modify Existing Policies and Procedures

22 53. The ADA also requires reasonable modifications in policies,
 23 practices, or procedures, when necessary to afford such goods, services, facilities,
 24 or accommodations to individuals with disabilities, unless the entity can
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 27
 28 ⁵ Nothing within this Complaint should be construed as an allegation that plaintiff is bringing this action as a
 private attorney general under either state or federal statutes.
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1 demonstrate that making such modifications would fundamentally alter their
2 nature. 42 U.S.C. § 12182(b)(2)(A)(ii).

3 54. Here, BB&B violated the ADA by failing to make reasonable
4 modifications in policies, practices, or procedures at the BB&B Facility, when
5 these modifications were necessary to afford (and would not fundamentally alter
6 the nature of) these goods, services, facilities, or accommodations.

7 55. Kohler seeks all relief available under the ADA (*i.e.*, injunctive
8 relief, attorney fees, costs, legal expense) for these aforementioned violations. 42
9 U.S.C. § 12205.

10 56. Kohler also seeks a finding from this Court (*i.e.*, declaratory relief)
11 that BB&B violated the ADA in order to pursue damages under California's
12 Unruh Civil Rights Act or Disabled Persons Act.

13 VII. SECOND CLAIM

14 Disabled Persons Act

15 (The BB&B Facility)

16 57. Kohler incorporates the allegations contained in paragraphs 1
17 through 56 for this claim.

18 58. California Civil Code § 54 states, in part, that: Individuals with
19 disabilities have the same right as the general public to the full and free use of the
20 streets, sidewalks, walkways, public buildings and facilities, and other public
21 places.

22 59. California Civil Code § 54.1 also states, in part, that: Individuals
23 with disabilities shall be entitled to full and equal access to accommodations,
24 facilities, telephone facilities, places of public accommodation, and other places
25 to which the general public is invited.

26 60. Both sections specifically incorporate (by reference) an individual's
27 rights under the ADA. See Civil Code §§ 54(c) and 54.1(d).

1 facilities, privileges and services in a business establishment (because of their
2 physical disability).

3 69. These acts and omissions (including the ones that violate the ADA)
4 denied, aided or incited a denial, or discriminated against Kohler by violating the
5 Unruh Act.

6 70. Kohler was damaged by BB&B's wrongful conduct, and seeks
7 statutory minimum damages of four thousand dollars (\$4,000) for each offense.

8 71. Kohler also seeks to enjoin BB&B from violating the Unruh Act
9 (and ADA), and recover reasonable attorneys' fees and costs incurred under
10 California Civil Code § 52(a).

11 IX. FOURTH CLAIM

12 **Denial of Full and Equal Access to Public Facilities**

13 (The BB&B Facility)

14 72. Kohler incorporates the allegations contained in paragraphs 1
15 through 71 for this claim.

16 73. Health and Safety Code § 19955(a) states, in part, that: California
17 public accommodations or facilities (built with private funds) shall adhere to the
18 provisions of Government Code § 4450.

19 74. Health and Safety Code § 19959 states, in part, that: Every existing
20 (non-exempt) public accommodation constructed prior to July 1, 1970, which is
21 altered or structurally repaired, is required to comply with this chapter.

22 75. Kohler alleges the BB&B Facility is a public accommodation
23 constructed, altered, or repaired in a manner that violates Part 5.5 of the Health
24 and Safety Code or Government Code § 4450 (or both), and that the BB&B
25 Facility was not exempt under Health and Safety Code § 19956.

26 76. BB&B's non-compliance with these requirements at the BB&B
27 Facility aggrieved (or potentially aggrieved) Kohler and other persons with
28

1 physical disabilities. Accordingly, he seeks injunctive relief and attorney fees
 2 pursuant to Health and Safety Code § 19953.

3 X. FIFTH CLAIM

4 **Americans with Disabilities Act of 1990**

5 Denial of "Full and Equal" Enjoyment and Use

6 (The Chilis Facility)

7 77. Kohler incorporates the allegations contained in paragraphs 1
 8 through 76 for this claim.

9 78. Title III of the ADA holds as a "general rule" that no individual shall
 10 be discriminated against on the basis of disability in the full and equal enjoyment
 11 (or use) of goods, services, facilities, privileges, and accommodations offered by
 12 any person who owns, operates, or leases a place of public accommodation. 42
 13 U.S.C. § 12182(a).

14 79. Chilis discriminated against Kohler by denying "full and equal
 15 enjoyment" and use of the goods, services, facilities, privileges or
 16 accommodations of the Wendy's Facility during each visit and each incident of
 17 deterrence.

18 Failure to Remove Architectural Barriers in an Existing Facility

19 80. The ADA specifically prohibits failing to remove architectural
 20 barriers, which are structural in nature, in existing facilities where such removal
 21 is readily achievable. 42 U.S.C. § 12182(b)(2)(A)(iv). The term "readily
 22 achievable" is defined as "easily accomplishable and able to be carried out
 23 without much difficulty or expense." *Id.* § 12181(9).

24 81. When an entity can demonstrate that removal of a barrier is not
 25 readily achievable, a failure to make goods, services, facilities, or
 26 accommodations available through alternative methods is also specifically
 27 prohibited if these methods are readily achievable. *Id.* § 12182(b)(2)(A)(v).

1 82. Here, Kohler alleges that Chilis can easily remove the architectural
2 barriers at Chilis Facility without much difficulty or expense, and that Chilis
3 violated the ADA by failing to remove those barriers, when it was readily
4 achievable to do so.

5 83. In the alternative, if it was not “readily achievable” for Wen Chilis
6 dy's to remove the Chilis Facility's barriers, then Chilis violated the ADA by
7 failing to make the required services available through alternative methods,
8 which are readily achievable.

9 Failure to Design and Construct an Accessible Facility

10 84. On information and belief, the Chilis Facility was designed or
11 constructed (or both) after January 26, 1992—independently triggering access
12 requirements under Title III of the ADA.

13 85. The ADA also prohibits designing and constructing facilities for first
14 occupancy after January 26, 1993, that aren't readily accessible to, and usable by,
15 individuals with disabilities when it was structurally practicable to do so. 42
16 U.S.C. § 12183(a)(1).

17 86. Here, Chilis violated the ADA by designing or constructing (or both)
18 the Chilis Facility in a manner that was not readily accessible to the physically
19 disabled public—including Kohler—when it was structurally practical to do so.⁶

20 Failure to Make an Altered Facility Accessible

21 87. On information and belief, the Chilis Facility was modified after
22 January 26, 1992, independently triggering access requirements under the ADA.

23 88. The ADA also requires that facilities altered in a manner that affects
24 (or could affect) its usability must be made readily accessible to individuals with
25 disabilities to the maximum extent feasible. 42 U.S.C. § 12183(a)(2). Altering an
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27 ⁶ Nothing within this Complaint should be construed as an allegation that plaintiff is bringing this action as a
28 private attorney general under either state or federal statutes.

1 area that contains a facility's primary function also requires adding making the
 2 paths of travel, bathrooms, telephones, and drinking fountains serving that area
 3 accessible to the maximum extent feasible. Id.

4 89. Here, Chilis altered the Chilis Facility in a manner that violated the
 5 ADA and was not readily accessible to the physically disabled public—including
 6 Kohler—to the maximum extent feasible.

7 Failure to Modify Existing Policies and Procedures

8 90. The ADA also requires reasonable modifications in policies,
 9 practices, or procedures, when necessary to afford such goods, services, facilities,
 10 or accommodations to individuals with disabilities, unless the entity can
 11 demonstrate that making such modifications would fundamentally alter their
 12 nature. 42 U.S.C. § 12182(b)(2)(A)(ii).

13 91. Here, Chilis violated the ADA by failing to make reasonable
 14 modifications in policies, practices, or procedures at the Chilis Facility, when
 15 these modifications were necessary to afford (and would not fundamentally alter
 16 the nature of) these goods, services, facilities, or accommodations.

17 92. Kohler seeks all relief available under the ADA (*i.e.*, injunctive
 18 relief, attorney fees, costs, legal expense) for these aforementioned violations. 42
 19 U.S.C. § 12205.

20 93. Kohler also seeks a finding from this Court (*i.e.*, declaratory relief)
 21 that Wendy's violated the ADA in order to pursue damages under California's
 22 Unruh Civil Rights Act or Disabled Persons Act.

23 XI. SIXTH CLAIM

24 **Disabled Persons Act**

25 (The Chilis Facility)

26 94. Kohler incorporates the allegations contained in paragraphs 1
 27 through 93 for this claim.

110. Health and Safety Code § 19955(a) states, in part, that: California public accommodations or facilities (built with private funds) shall adhere to the provisions of Government Code § 4450.

111. Health and Safety Code § 19959 states, in part, that: Every existing (non-exempt) public accommodation constructed prior to July 1, 1970, which is altered or structurally repaired, is required to comply with this chapter.

112. Kohler alleges the Chilis Facility is a public accommodation constructed, altered, or repaired in a manner that violates Part 5.5 of the Health and Safety Code or Government Code § 4450 (or both), and that the Chilis Facility was not exempt under Health and Safety Code § 19956.

113. Chilis' non-compliance with these requirements at the Chilis Facility aggrieved (or potentially aggrieved) Kohler and other persons with physical disabilities. Accordingly, he seeks injunctive relief and attorney fees pursuant to Health and Safety Code § 19953.

XIV. NINTH CLAIM

Americans with Disabilities Act of 1990

Denial of "Full and Equal" Enjoyment and Use

(The Petsmart Facility)

114. Kohler incorporates the allegations contained in paragraphs 1 through 113 for this claim.

115. Title III of the ADA holds as a "general rule" that no individual shall be discriminated against on the basis of disability in the full and equal enjoyment (or use) of goods, services, facilities, privileges, and accommodations offered by any person who owns, operates, or leases a place of public accommodation. 42 U.S.C. § 12182(a).

116. Petsmart discriminated against Kohler by denying "full and equal enjoyment" and use of the goods, services, facilities, privileges or

1 accommodations of the Petsmart Facility during each visit and each incident of
2 deterrence.

3 Failure to Remove Architectural Barriers in an Existing Facility

4 117. The ADA specifically prohibits failing to remove architectural
5 barriers, which are structural in nature, in existing facilities where such removal
6 is readily achievable. 42 U.S.C. § 12182(b)(2)(A)(iv). The term “readily
7 achievable” is defined as “easily accomplishable and able to be carried out
8 without much difficulty or expense.” *Id.* § 12181(9).

9 118. When an entity can demonstrate that removal of a barrier is not
10 readily achievable, a failure to make goods, services, facilities, or
11 accommodations available through alternative methods is also specifically
12 prohibited if these methods are readily achievable. *Id.* § 12182(b)(2)(A)(v).

13 119. Here, Kohler alleges that Petsmart can easily remove the
14 architectural barriers at Petsmart Facility without much difficulty or expense, and
15 that Petsmart violated the ADA by failing to remove those barriers, when it was
16 readily achievable to do so.

17 120. In the alternative, if it was not “readily achievable” for Petsmart to
18 remove the Petsmart Facility’s barriers, then Petsmart violated the ADA by
19 failing to make the required services available through alternative methods,
20 which are readily achievable.

21 Failure to Design and Construct an Accessible Facility

22 121. On information and belief, the Petsmart Facility was designed or
23 constructed (or both) after January 26, 1992—independently triggering access
24 requirements under Title III of the ADA.

25 122. The ADA also prohibits designing and constructing facilities for first
26 occupancy after January 26, 1993, that aren’t readily accessible to, and usable by,
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1 individuals with disabilities when it was structurally practicable to do so. 42
2 U.S.C. § 12183(a)(1).

3 123. Here, Petsmart violated the ADA by designing or constructing (or
4 both) the Petsmart Facility in a manner that was not readily accessible to the
5 physically disabled public—including Kohler—when it was structurally practical
6 to do so.⁷

7 Failure to Make an Altered Facility Accessible

8 124. On information and belief, the Petsmart Facility was modified after
9 January 26, 1992, independently triggering access requirements under the ADA.

10 125. The ADA also requires that facilities altered in a manner that affects
11 (or could affect) its usability must be made readily accessible to individuals with
12 disabilities to the maximum extent feasible. 42 U.S.C. § 12183(a)(2). Altering an
13 area that contains a facility's primary function also requires adding making the
14 paths of travel, bathrooms, telephones, and drinking fountains serving that area
15 accessible to the maximum extent feasible. Id.

16 126. Here, Petsmart altered the Petsmart Facility in a manner that violated
17 the ADA and was not readily accessible to the physically disabled public—
18 including Kohler—to the maximum extent feasible.

19 Failure to Modify Existing Policies and Procedures

20 127. The ADA also requires reasonable modifications in policies,
21 practices, or procedures, when necessary to afford such goods, services, facilities,
22 or accommodations to individuals with disabilities, unless the entity can
23 demonstrate that making such modifications would fundamentally alter their
24 nature. 42 U.S.C. § 12182(b)(2)(A)(ii).

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28 ⁷ Nothing within this Complaint should be construed as an allegation that plaintiff is bringing this action as a
private attorney general under either state or federal statutes.

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128. Here, Petsmart violated the ADA by failing to make reasonable modifications in policies, practices, or procedures at the Petsmart Facility, when these modifications were necessary to afford (and would not fundamentally alter the nature of) these goods, services, facilities, or accommodations.

129. Kohler seeks all relief available under the ADA (*i.e.*, injunctive relief, attorney fees, costs, legal expense) for these aforementioned violations. 42 U.S.C. § 12205.

130. Kohler also seeks a finding from this Court (*i.e.*, declaratory relief) that Petsmart violated the ADA in order to pursue damages under California's Unruh Civil Rights Act or Disabled Persons Act.

XV. TENTH CLAIM

Disabled Persons Act

(The Petsmart Facility)

131. Kohler incorporates the allegations contained in paragraphs 1 through 130 for this claim.

132. California Civil Code § 54 states, in part, that: Individuals with disabilities have the same right as the general public to the full and free use of the streets, sidewalks, walkways, public buildings and facilities, and other public places.

133. California Civil Code § 54.1 also states, in part, that: Individuals with disabilities shall be entitled to full and equal access to accommodations, facilities, telephone facilities, places of public accommodation, and other places to which the general public is invited.

134. Both sections specifically incorporate (by reference) an individual's rights under the ADA. See Civil Code §§ 54(c) and 54.1(d).

135. Here, Petsmart discriminated against the physically disabled public—including Kohler—by denying them full and equal access to the

Petsmart Facility. The Petsmart also violated Kohler's rights under the ADA, and, therefore, infringed upon or violated (or both) Kohler's rights under the Disabled Persons Act.

136. For each offense of the Disabled Persons Act, Kohler seeks actual damages (both general and special damages), statutory minimum damages of one thousand dollars (\$1,000), declaratory relief, and any other remedy available under California Civil Code § 54.3.

137. He also seeks to enjoin Petsmart from violating the Disabled Persons Act (and ADA) under California Civil Code § 55, and to recover reasonable attorneys' fees and incurred under California Civil Code §§ 54.3 and 55.

XVI. ELEVENTH CLAIM

Unruh Civil Rights Act

(The Petsmart Facility)

138. Kohler incorporates the allegations contained in paragraphs 1 through 137 for this claim.

139. California Civil Code § 51 states, in part, that: All persons within the jurisdiction of this state are entitled to the full and equal accommodations, advantages, facilities, privileges, or services in all business establishments of every kind whatsoever.

140. California Civil Code § 51.5 also states, in part, that: No business establishment of any kind whatsoever shall discriminate against any person in this state because of the disability of the person.

141. California Civil Code § 51(f) specifically incorporates (by reference) an individual's rights under the ADA into the Unruh Act.

142. Petsmart's aforementioned acts and omissions denied the physically disabled public—including Kohler—full and equal accommodations, advantages,

1 facilities, privileges and services in a business establishment (because of their
2 physical disability).

3 143. These acts and omissions (including the ones that violate the ADA)
4 denied, aided or incited a denial, or discriminated against Kohler by violating the
5 Unruh Act.

6 144. Kohler was damaged by Petsmart's wrongful conduct, and seeks
7 statutory minimum damages of four thousand dollars (\$4,000) for each offense.

8 145. Kohler also seeks to enjoin Petsmart from violating the Unruh Act
9 (and ADA), and recover reasonable attorneys' fees and costs incurred under
10 California Civil Code § 52(a).

11 XVII. TWELFTH CLAIM

12 Denial of Full and Equal Access to Public Facilities

13 (The Petsmart Facility)

14 146. Kohler incorporates the allegations contained in paragraphs 1
15 through 145 for this claim.

16 147. Health and Safety Code § 19955(a) states, in part, that: California
17 public accommodations or facilities (built with private funds) shall adhere to the
18 provisions of Government Code § 4450.

19 148. Health and Safety Code § 19959 states, in part, that: Every existing
20 (non-exempt) public accommodation constructed prior to July 1, 1970, which is
21 altered or structurally repaired, is required to comply with this chapter.

22 149. Kohler alleges the Petsmart Facility is a public accommodation
23 constructed, altered, or repaired in a manner that violates Part 5.5 of the Health
24 and Safety Code or Government Code § 4450 (or both), and that the Petsmart
25 Facility was not exempt under Health and Safety Code § 19956.

26 150. Petsmart's non-compliance with these requirements at the Petsmart
27 Facility aggrieved (or potentially aggrieved) Kohler and other persons with
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1 physical disabilities. Accordingly, he seeks injunctive relief and attorney fees
 2 pursuant to Health and Safety Code § 19953.

3 XVIII. THIRTEENTH CLAIM

4 **Americans with Disabilities Act of 1990**

5 Denial of “Full and Equal” Enjoyment and Use

6 (The Wendy’s Facility)

7 151. Kohler incorporates the allegations contained in paragraphs 1
 8 through 150 for this claim.

9 152. Title III of the ADA holds as a “general rule” that no individual shall
 10 be discriminated against on the basis of disability in the full and equal enjoyment
 11 (or use) of goods, services, facilities, privileges, and accommodations offered by
 12 any person who owns, operates, or leases a place of public accommodation. 42
 13 U.S.C. § 12182(a).

14 153. Wendy’s discriminated against Kohler by denying “full and equal
 15 enjoyment” and use of the goods, services, facilities, privileges or
 16 accommodations of the Wendy’s Facility during each visit and each incident of
 17 deterrence.

18 Failure to Remove Architectural Barriers in an Existing Facility

19 154. The ADA specifically prohibits failing to remove architectural
 20 barriers, which are structural in nature, in existing facilities where such removal
 21 is readily achievable. 42 U.S.C. § 12182(b)(2)(A)(iv). The term “readily
 22 achievable” is defined as “easily accomplishable and able to be carried out
 23 without much difficulty or expense.” *Id.* § 12181(9).

24 155. When an entity can demonstrate that removal of a barrier is not
 25 readily achievable, a failure to make goods, services, facilities, or
 26 accommodations available through alternative methods is also specifically
 27 prohibited if these methods are readily achievable. *Id.* § 12182(b)(2)(A)(v).

1 156. Here, Kohler alleges that Wendy's can easily remove the
 2 architectural barriers at the Wendy's Facility without much difficulty or expense,
 3 and that Wendy's violated the ADA by failing to remove those barriers, when it
 4 was readily achievable to do so.

5 157. In the alternative, if it was not "readily achievable" Wendy's to
 6 remove the Wendy's Facility's barriers, then Wendy's violated the ADA by
 7 failing to make the required services available through alternative methods,
 8 which are readily achievable.

9 Failure to Design and Construct an Accessible Facility

10 158. On information and belief, the Wendy's Facility was designed or
 11 constructed (or both) after January 26, 1992—independently triggering access
 12 requirements under Title III of the ADA.

13 159. The ADA also prohibits designing and constructing facilities for first
 14 occupancy after January 26, 1993, that aren't readily accessible to, and usable by,
 15 individuals with disabilities when it was structurally practicable to do so. 42
 16 U.S.C. § 12183(a)(1).

17 160. Here, Wendy's violated the ADA by designing or constructing (or
 18 both) the Wendy's Facility in a manner that was not readily accessible to the
 19 physically disabled public—including Kohler—when it was structurally practical
 20 to do so.⁸

21 Failure to Make an Altered Facility Accessible

22 161. On information and belief, the Wendy's Facility was modified after
 23 January 26, 1992, independently triggering access requirements under the ADA.

24 162. The ADA also requires that facilities altered in a manner that affects
 25 (or could affect) its usability must be made readily accessible to individuals with
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27 ⁸ Nothing within this Complaint should be construed as an allegation that plaintiff is bringing this action as a
 28 private attorney general under either state or federal statutes.

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1 disabilities to the maximum extent feasible. 42 U.S.C. § 12183(a)(2). Altering an
2 area that contains a facility's primary function also requires adding making the
3 paths of travel, bathrooms, telephones, and drinking fountains serving that area
4 accessible to the maximum extent feasible. Id.

5 163. Here, Wendy's altered the Wendy's Facility in a manner that
6 violated the ADA and was not readily accessible to the physically disabled
7 public—including Kohler—to the maximum extent feasible.

8 Failure to Modify Existing Policies and Procedures

9 164. The ADA also requires reasonable modifications in policies,
10 practices, or procedures, when necessary to afford such goods, services, facilities,
11 or accommodations to individuals with disabilities, unless the entity can
12 demonstrate that making such modifications would fundamentally alter their
13 nature. 42 U.S.C. § 12182(b)(2)(A)(ii).

14 165. Here, Wendy's violated the ADA by failing to make reasonable
15 modifications in policies, practices, or procedures at the Wendy's Facility, when
16 these modifications were necessary to afford (and would not fundamentally alter
17 the nature of) these goods, services, facilities, or accommodations.

18 166. Kohler seeks all relief available under the ADA (*i.e.*, injunctive
19 relief, attorney fees, costs, legal expense) for these aforementioned violations. 42
20 U.S.C. § 12205.

21 167. Kohler also seeks a finding from this Court (*i.e.*, declaratory relief)
22 that Wendy's violated the ADA in order to pursue damages under California's
23 Unruh Civil Rights Act or Disabled Persons Act.

XIX. FOURTEENTH CLAIM

Disabled Persons Act

(The Wendy's Facility)

168. Kohler incorporates the allegations contained in paragraphs 1 through 167 for this claim.

169. California Civil Code § 54 states, in part, that: Individuals with disabilities have the same right as the general public to the full and free use of the streets, sidewalks, walkways, public buildings and facilities, and other public places.

170. California Civil Code § 54.1 also states, in part, that: Individuals with disabilities shall be entitled to full and equal access to accommodations, facilities, telephone facilities, places of public accommodation, and other places to which the general public is invited.

171. Both sections specifically incorporate (by reference) an individual's rights under the ADA. See Civil Code §§ 54(c) and 54.1(d).

172. Here, Wendy's discriminated against the physically disabled public—including Kohler—by denying them full and equal access to the Wendy's Facility. Wendy's also violated Kohler's rights under the ADA, and, therefore, infringed upon or violated (or both) Kohler's rights under the Disabled Persons Act.

173. For each offense of the Disabled Persons Act, Kohler seeks actual damages (both general and special damages), statutory minimum damages of one thousand dollars (\$1,000), declaratory relief, and any other remedy available under California Civil Code § 54.3.

174. He also seeks to enjoin Wendy's from violating the Disabled Persons Act (and ADA) under California Civil Code § 55, and to recover

1 reasonable attorneys' fees and incurred under California Civil Code §§ 54.3 and
2 55.

3 XX. FIFTEENTH CLAIM

4 **Unruh Civil Rights Act**

5 (The Wendy's Facility)

6 175. Kohler incorporates the allegations contained in paragraphs 1
7 through 174 for this claim.

8 176. California Civil Code § 51 states, in part, that: All persons within the
9 jurisdiction of this state are entitled to the full and equal accommodations,
10 advantages, facilities, privileges, or services in all business establishments of
11 every kind whatsoever.

12 177. California Civil Code § 51.5 also states, in part, that: No business
13 establishment of any kind whatsoever shall discriminate against any person in
14 this state because of the disability of the person.

15 178. California Civil Code § 51(f) specifically incorporates (by reference)
16 an individual's rights under the ADA into the Unruh Act.

17 179. Wendys' aforementioned acts and omissions denied the physically
18 disabled public—including Kohler—full and equal accommodations, advantages,
19 facilities, privileges and services in a business establishment (because of their
20 physical disability).

21 180. These acts and omissions (including the ones that violate the ADA)
22 denied, aided or incited a denial, or discriminated against Kohler by violating the
23 Unruh Act.

24 181. Kohler was damaged by Wendys' wrongful conduct, and seeks
25 statutory minimum damages of four thousand dollars (\$4,000) for each offense.

1 182. Kohler also seeks to enjoin Wendy's from violating the Unruh Act
2 (and ADA), and recover reasonable attorneys' fees and costs incurred under
3 California Civil Code § 52(a).

4 XXI. SIXTEENTH CLAIM

5 **Denial of Full and Equal Access to Public Facilities**

6 (The Wendy's Facility)

7 183. Kohler incorporates the allegations contained in paragraphs 1
8 through 182 for this claim.

9 184. Health and Safety Code § 19955(a) states, in part, that: California
10 public accommodations or facilities (built with private funds) shall adhere to the
11 provisions of Government Code § 4450.

12 185. Health and Safety Code § 19959 states, in part, that: Every existing
13 (non-exempt) public accommodation constructed prior to July 1, 1970, which is
14 altered or structurally repaired, is required to comply with this chapter.

15 186. Kohler alleges the Wendy's Facility is a public accommodation
16 constructed, altered, or repaired in a manner that violates Part 5.5 of the Health
17 and Safety Code or Government Code § 4450 (or both), and that Wendy's
18 Facility was not exempt under Health and Safety Code § 19956.

19 187. Wendys' non-compliance with these requirements at the Wendy's
20 Facility aggrieved (or potentially aggrieved) Kohler and other persons with
21 physical disabilities. Accordingly, he seeks injunctive relief and attorney fees
22 pursuant to Health and Safety Code § 19953.

XXX. SEVENTEENTH CLAIM
Americans with Disabilities Act of 1990
Denial of “Full and Equal” Enjoyment and Use
(The Entire Facility)

188. Kohler incorporates the allegations contained in paragraphs 1 through 187 for this claim.

189. Title III of the ADA holds as a “general rule” that no individual shall be discriminated against on the basis of disability in the full and equal enjoyment (or use) of goods, services, facilities, privileges, and accommodations offered by any person who owns, operates, or leases a place of public accommodation. 42 U.S.C. § 12182(a).

190. LEM discriminated against Kohler by denying “full and equal enjoyment” and use of the goods, services, facilities, privileges or accommodations of the Entire Facility during each visit and each incident of deterrence.

Failure to Remove Architectural Barriers in an Existing Facility

191. The ADA specifically prohibits failing to remove architectural barriers, which are structural in nature, in existing facilities where such removal is readily achievable. 42 U.S.C. § 12182(b)(2)(A)(iv). The term “readily achievable” is defined as “easily accomplishable and able to be carried out without much difficulty or expense.” *Id.* § 12181(9).

192. When an entity can demonstrate that removal of a barrier is not readily achievable, a failure to make goods, services, facilities, or accommodations available through alternative methods is also specifically prohibited if these methods are readily achievable. *Id.* § 12182(b)(2)(A)(v).

193. Here, Kohler alleges that LEM can easily remove the architectural barriers at the Entire Facility without much difficulty or expense, and that LEM

1 violated the ADA by failing to remove those barriers, when it was readily
2 achievable to do so.

3 194. In the alternative, if it was not “readily achievable” for LEM to
4 remove the Entire Facility’s barriers, then LEM violated the ADA by failing to
5 make the required services available through alternative methods, which are
6 readily achievable.

7 Failure to Design and Construct an Accessible Facility

8 195. On information and belief, the Entire Facility was designed or
9 constructed (or both) after January 26, 1992—independently triggering access
10 requirements under Title III of the ADA.

11 196. The ADA also prohibits designing and constructing facilities for first
12 occupancy after January 26, 1993, that aren’t readily accessible to, and usable by,
13 individuals with disabilities when it was structurally practicable to do so. 42
14 U.S.C. § 12183(a)(1).

15 197. Here, LEM violated the ADA by designing or constructing (or both)
16 the Entire Facility in a manner that was not readily accessible to the physically
17 disabled public—including Kohler—when it was structurally practical to do so.⁹

18 Failure to Make an Altered Facility Accessible

19 198. On information and belief, the Entire Facility was modified after
20 January 26, 1992, independently triggering access requirements under the ADA.

21 199. The ADA also requires that facilities altered in a manner that affects
22 (or could affect) its usability must be made readily accessible to individuals with
23 disabilities to the maximum extent feasible. 42 U.S.C. § 12183(a)(2). Altering an
24 area that contains a facility’s primary function also requires adding making the
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28 ⁹ Nothing within this Complaint should be construed as an allegation that plaintiff is bringing this action as a private attorney general under either state or federal statutes.

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1 paths of travel, bathrooms, telephones, and drinking fountains serving that area
2 accessible to the maximum extent feasible. Id.

3 200. Here, LEM altered the Entire Facility in a manner that violated the
4 ADA and was not readily accessible to the physically disabled public—including
5 Kohler—to the maximum extent feasible.

6 Failure to Modify Existing Policies and Procedures

7 201. The ADA also requires reasonable modifications in policies,
8 practices, or procedures, when necessary to afford such goods, services, facilities,
9 or accommodations to individuals with disabilities, unless the entity can
10 demonstrate that making such modifications would fundamentally alter their
11 nature. 42 U.S.C. § 12182(b)(2)(A)(ii).

12 202. Here, LEM violated the ADA by failing to make reasonable
13 modifications in policies, practices, or procedures at the Entire Facility, when
14 these modifications were necessary to afford (and would not fundamentally alter
15 the nature of) these goods, services, facilities, or accommodations.

16 203. Kohler seeks all relief available under the ADA (*i.e.*, injunctive
17 relief, attorney fees, costs, legal expense) for these aforementioned violations. 42
18 U.S.C. § 12205.

19 204. Kohler also seeks a finding from this Court (*i.e.*, declaratory relief)
20 that LEM violated the ADA in order to pursue damages under California's Unruh
21 Civil Rights Act or Disabled Persons Act.

22 **XXXI. EIGHTEENTH CLAIM**

23 **Disabled Persons Act**

24 **(The Entire Facility)**

25 205. Kohler incorporates the allegations contained in paragraphs 1
26 through 204 for this claim.

1 213. California Civil Code § 51 states, in part, that: All persons within the
2 jurisdiction of this state are entitled to the full and equal accommodations,
3 advantages, facilities, privileges, or services in all business establishments of
4 every kind whatsoever.

5 214. California Civil Code § 51.5 also states, in part, that: No business
6 establishment of any kind whatsoever shall discriminate against any person in
7 this state because of the disability of the person.

8 215. California Civil Code § 51(f) specifically incorporates (by reference)
9 an individual's rights under the ADA into the Unruh Act.

10 216. LEM's aforementioned acts and omissions denied the physically
11 disabled public—including Kohler—full and equal accommodations, advantages,
12 facilities, privileges and services in a business establishment (because of their
13 physical disability).

14 217. These acts and omissions (including the ones that violate the ADA)
15 denied, aided or incited a denial, or discriminated against Kohler by violating the
16 Unruh Act.

17 218. Kohler was damaged by LEM's wrongful conduct, and seeks
18 statutory minimum damages of four thousand dollars (\$4,000) for each offense.

19 219. Kohler also seeks to enjoin LEM from violating the Unruh Act (and
20 ADA), and recover reasonable attorneys' fees and costs incurred under California
21 Civil Code § 52(a).

22 XXXIII. TWENTIETH CLAIM

23 **Denial of Full and Equal Access to Public Facilities**

24 (The Entire Facility)

25 220. Kohler incorporates the allegations contained in paragraphs 1
26 through 219 for this claim.

1 XXXV. PRAYER FOR RELIEF

2 WHEREFORE, Kohler prays judgment against Chilis for:

3 1. Injunctive relief, preventive relief, or any other relief the Court
4 deems proper.

5 2. Declaratory relief that Chilis violated the ADA for the purposes of
6 Unruh Act or Disabled Persons Act damages.

7 3. Statutory minimum damages under either sections 52(a) or 54.3(a)
8 of the California Civil Code (but not both) according to proof.

9 4. Attorneys' fees, litigation expenses, and costs of suit.¹¹

10 5. Interest at the legal rate from the date of the filing of this action.

11 XXXVI. PRAYER FOR RELIEF

12 WHEREFORE, Kohler prays judgment against Petsmart for:

13 1. Injunctive relief, preventive relief, or any other relief the Court
14 deems proper.

15 2. Declaratory relief that Petsmart violated the ADA for the purposes
16 of Unruh Act or Disabled Persons Act damages.

17 3. Statutory minimum damages under either sections 52(a) or 54.3(a)
18 of the California Civil Code (but not both) according to proof.

19 4. Attorneys' fees, litigation expenses, and costs of suit.¹²

20 5. Interest at the legal rate from the date of the filing of this action.

21 XXXVII. PRAYER FOR RELIEF

22 WHEREFORE, Kohler prays judgment against Wendy's for:

23 1. Injunctive relief, preventive relief, or any other relief the Court
24 deems proper.

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28 ¹¹ This includes attorneys' fees under California Code of Civil Procedure § 1021.5.

¹² This includes attorneys' fees under California Code of Civil Procedure § 1021.5.
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Plaintiff's Complaint

2. Declaratory relief that Wendy's violated the ADA for the purposes of Unruh Act or Disabled Persons Act damages.

3. Statutory minimum damages under either sections 52(a) or 54.3(a) of the California Civil Code (but not both) according to proof.

4. Attorneys' fees, litigation expenses, and costs of suit.¹³

5. Interest at the legal rate from the date of the filing of this action.

XXXVIII. PRAYER FOR RELIEF

WHEREFORE, Kohler prays judgment against LEM for:

1. Injunctive relief, preventive relief, or any other relief the Court deems proper.

2. Declaratory relief that LEM violated the ADA for the purposes of Unruh Act or Disabled Persons Act damages.

3. Statutory minimum damages under either sections 52(a) or 54.3(a) of the California Civil Code (but not both) according to proof.

4. Attorneys' fees, litigation expenses, and costs of suit.¹⁴

5. Interest at the legal rate from the date of the filing of this action.

DATED: May 23, 2011

DISABLED ADVOCACY GROUP, APLC



LYNN HUBBARD, III
Attorney for Plaintiff

¹³ This includes attorneys' fees under California Code of Civil Procedure § 1021.5.

¹⁴ This includes attorneys' fees under California Code of Civil Procedure § 1021.5.

Kohler v. Petsmart, Inc., et al.

Plaintiff's Complaint

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

NOTICE OF ASSIGNMENT TO UNITED STATES MAGISTRATE JUDGE FOR DISCOVERY

This case has been assigned to District Judge J. Spencer Letts and the assigned discovery Magistrate Judge is Sheri Pym.

The case number on all documents filed with the Court should read as follows:

CV11- 4451 JSL (SPx)

Pursuant to General Order 05-07 of the United States District Court for the Central District of California, the Magistrate Judge has been designated to hear discovery related motions.

The United States District Judge assigned to this case will review all filed discovery motions and thereafter, on a case-by-case or motion-by-motion basis, may refer discovery related motions to the Magistrate Judge for hearing and determination

=====

NOTICE TO COUNSEL

A copy of this notice must be served with the summons and complaint on all defendants (if a removal action is filed, a copy of this notice must be served on all plaintiffs).

Subsequent documents must be filed at the following location:

☒ **Western Division**
312 N. Spring St., Rm. G-8
Los Angeles, CA 90012

☐ **Southern Division**
411 West Fourth St., Rm. 1-053
Santa Ana, CA 92701-4516

☐ **Eastern Division**
3470 Twelfth St., Rm. 134
Riverside, CA 92501

Failure to file at the proper location will result in your documents being returned to you.

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

CHRIS KOHLER,

PLAINTIFF(S)

CASE NUMBER

CV 11 - 04451

ISL (SPX)

(SEE ATTACHED SHEET v.)

Bed Bath & Beyond of
California, LLC

DEFENDANT(S).

SUMMONS

TO: DEFENDANT(S): _____

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it), you must serve on the plaintiff an answer to the attached ☒ complaint ☐ _____ amended complaint ☐ counterclaim ☐ cross-claim or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff's attorney, LYNN HUBBARD, III, whose address is Law Office of Lynn Hubbard, 12 Williamsburg Lane, Chico, CA 95926. If you fail to do so, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

TERRY NAFISI

Clerk, U.S. District Court

Dated: MAY 24 2011By: J. Murray

Deputy Clerk

(Seal of the Court)

[Use 60 days if the defendant is the United States or a United States agency, or is an officer or employee of the United States. Allowed 60 days by Rule 12(a)(3)].

ORIGINAL

1 LYNN HUBBARD, III, SBN 69773
2 **DISABLED ADVOCACY GROUP, APLC**
3 12 Williamsburg Lane
4 Chico, CA 95926
5 Telephone: (530) 895-3252
6 Facsimile: (530) 894-8244
7 Email: USDCCentral@HubsLaw.com

8 Attorneys for Plaintiff

9 UNITED STATES DISTRICT COURT
10 CENTRAL DISTRICT OF CALIFORNIA

11
12
13 CHRIS KOHLER,

14 Plaintiff,

15 vs.

16 BED BATH & BEYOND of
17 CALIFORNIA, LLC dba BED
18 BATH & BEYOND #1136;
19 BRINKER RESTAURANT
20 CORPORATION dba CHILIS
21 GRILL & BAR #1169; PETSMART,
22 INC. dba PETSMART #1362;
23 WENDY'S INTERNATIONAL,
24 INC. dba WENDY'S #10574; LAKE
25 EL SINORE MARKETPLACE, LLC,

26 Defendants.

No.

Plaintiff's Complaint

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET

I (a) PLAINTIFFS (Check box if you are representing yourself <input type="checkbox"/>) CHRIS KOHLER	DEFENDANTS SEE ATTACHED SHEET
(b) County of Residence of First Listed Plaintiff (Except in U.S. Plaintiff Cases): SAN DIEGO	County of Residence of First Listed Defendant (In U.S. Plaintiff Cases Only):
(c) Attorneys (Firm Name, Address and Telephone Number. If you are representing yourself, provide same.) Lynn Hubbard, III, SBN 69773 LAW OFFICE OF LYNN HUBBARD 12 Williamsburg Lane Chico, CA 95926 (530) 895-3252	Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an X in one box only.)

- ☐ 1 U.S. Government Plaintiff ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES - For Diversity Cases Only
(Place an X in one box for plaintiff and one for defendant.)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in this State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. ORIGIN (Place an X in one box only.)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify): ☐ 6 Multi-District Litigation ☐ 7 Appeal to District Judge from Magistrate Judge

V. REQUESTED IN COMPLAINT: JURY DEMAND: ☐ Yes ☒ No (Check 'Yes' only if demanded in complaint.)CLASS ACTION under F.R.C.P. 23: ☐ Yes ☐ No☐ MONEY DEMANDED IN COMPLAINT: \$ excess \$75,000**VI. CAUSE OF ACTION** (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.)
42 U.S. C. Section 12100, et seq. ongoing violations of ADA Construction Standards**VII. NATURE OF SUIT** (Place an X in one box only.)

OTHER STATUTES	CONTRACT	TORTS	TORTS	PRISONER PETITIONS	LABOR
<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities /Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Act <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions	<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Fed. Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury-Med Malpractice <input type="checkbox"/> 365 Personal Injury-Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability BANKRUPTCY <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input checked="" type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus/Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition FORFEITURE / PENALTY <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety /Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS-Third Party 26 USC 7609

VIII(a). IDENTICAL CASES: Has this action been previously filed and dismissed, remanded or closed? ☒ No ☐ Yes

If yes, list case number(s):

FOR OFFICE USE ONLY: Case Number: _____

MAY 24 2011

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET

AFTER COMPLETING THE FRONT SIDE OF FORM JS-44C, COMPLETE THE INFORMATION REQUESTED BELOW.

VIII(b). RELATED CASES: Have any cases been previously filed that are related to the present case? ☒ No ☐ Yes

If yes, list case number(s): _____

Civil cases are deemed related if a previously filed case and the present case:

- (Check all boxes that apply) ☐ A. Appear to arise from the same or substantially identical transactions, happenings, or events;
☐ B. Involve the same or substantially the same parties or property;
☐ C. Involve the same patent, trademark or copyright;
☐ D. Call for determination of the same or substantially identical questions of law, or
☐ E. Likely for other reasons may entail unnecessary duplication of labor if heard by different judges.

IX. VENUE: List the California County, or State if other than California, in which EACH named plaintiff resides (Use an additional sheet if necessary)
☐ Check here if the U.S. government, its agencies or employees is a named plaintiff.

SAN DIEGO COUNTY

List the California County, or State if other than California, in which EACH named defendant resides. (Use an additional sheet if necessary).
☐ Check here if the U.S. government, its agencies or employees is a named defendant.

LOS ANGELES COUNTY, SACRAMENTO COUNTY

List the California County, or State if other than California, in which EACH claim arose. (Use an additional sheet if necessary)
 Note: In land condemnation cases, use the location of the tract of land involved.

RIVERSIDE COUNTY

X. SIGNATURE OF ATTORNEY (OR PRO PER):

Date May 23, 2011

Notice to Counsel/Parties: The CV-71 (JS-44) Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet.)

Key to Statistical codes relating to Social Security Cases:

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405(g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405(g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. (g))

DEFENDANT'S LIST

1. BED BATH & BEYOND of CALIFNORIA, LLC dba BED BATH & BEYOND #1136;
2. BRINKER RESTAURANT CORPORATION dba CHILIS GRILL & BAR #1169;
3. PETSMART, INC. dba PETSMART #1362;
4. WENDY'S INTERNATIONAL, INC. dba WENDY'S #10574;
5. LAKE ELSINORE MARKETPLACE, LLC